

立法會
Legislative Council

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Establishment Subcommittee of the Finance Committee

Minutes of the 9th meeting
held in Conference Room 1 of Legislative Council Complex
on Wednesday, 29 May 2013, at 8:30 am

Members present:

Hon WONG Ting-kwong, SBS, JP (Chairman)
Hon Kenneth LEUNG (Deputy Chairman)
Hon Starry LEE Wai-king, JP
Hon Emily LAU Wai-hing, JP
Hon WONG Kwok-kin, BBS
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon YIU Si-wing
Dr Hon KWOK Ka-ki
Hon Martin LIAO Cheung-kwong, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu
Hon CHUNG Kwok-pan

Members absent:

Hon Steven HO Chun-yin
Hon KWOK Wai-keung
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen

Public Officers attending:

Ms Esther LEUNG, JP

Deputy Secretary for Financial Services
and the Treasury (Treasury) 1

Mr Eddie MAK Tak-wai, JP	Deputy Secretary for the Civil Service (1)
Mr Eddie CHEUNG	Deputy Secretary for Financial Services and the Treasury (Financial Services) 2
Mr WAI Chi-sing, JP	Permanent Secretary for Development (Works)
Mr HON Chi-keung, JP	Director of Civil Engineering and Development
Mr Frank CHAN, JP	Director of Electrical and Mechanical Services
Mr LING Kar-kan, JP	Director of Planning

Clerk in attendance:

Ms Connie SZETO	Chief Council Secretary (1)4
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Staff in attendance:

Mr Andy LAU	Assistant Secretary General 1
Mr Hugo CHIU	Council Secretary (1)4
Ms Alice CHEUNG	Senior Legislative Assistant (1)1
Ms Clara LO	Legislative Assistant (1)9

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The Chairman drew members' attention to the information paper ECI(2013-14)2, which set out the latest changes in the directorate establishment approved since 2002.

EC(2013-14)3 Proposed retention of one supernumerary post of Administrative Officer Staff Grade C (D2) in the Financial Services Branch of the Financial Services and the Treasury Bureau with effect from 15 October 2013 to 31 October 2015 to provide continued directorate support to complete the current legislative and related work in relation to, among other things, the establishment of an independent Insurance Authority and Policyholders' Protection Fund

2. The Chairman said that the Administration's proposal, which was carried over from the last meeting of the Subcommittee on 15 May 2013, was to retain one supernumerary post of Administrative Officer Staff Grade C in the Financial Services Branch of the Financial Services and the Treasury

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Bureau (FSTB) with effect from 15 October 2013 to 31 October 2015 to provide continued directorate support to complete the current legislative and related work in relation to, among other things, the establishment of an independent Insurance Authority (IA) and Policyholders' Protection Fund (PPF). The Panel on Financial Affairs (FA Panel) had been consulted on the proposal at its meeting on 8 April 2013, and the major deliberations of the Panel were reported at the last meeting of the Subcommittee. The Chairman reminded that members should pursue policy issues relating to the item in the relevant Panels.

Concerns of the insurance industry about the new regulatory regime

3. Ms Emily LAU and Mr YIU Si-wing expressed support for the proposal. Ms LAU observed that the insurance industry had raised concern about the proposed establishment of IA. She enquired about the industry's views and the Administration's responses in this regard. Mr YIU noted that small and medium-sized insurance intermediaries had expressed concern about the proposed disciplinary sanctions on licensed intermediaries, including the heavy pecuniary penalty of \$10 million. He enquired how the Administration would address the industry's concern on the matter. Mr YIU further stressed the importance for the incumbent of the proposed post to listen to the views of the industry and pay attention to the concerns of small and medium-sized insurance intermediaries.

4. Deputy Secretary for Financial Services and the Treasury (Financial Services) 2 (DS(FS)) responded that the Administration launched a three-month public consultation on the key legislative proposals for the establishment of IA in October 2012 and received a total of 558 written submissions of which about 500 were duplicates of three templates. The Administration planned to brief FA Panel on the consultation conclusions in July 2013. The major views expressed by the insurance industry during the public consultation included that (a) the governing board of IA should comprise members from insurance intermediaries to ensure that their interests were represented; (b) the two statutory Industry Advisory Committees of IA (one on life insurance and the other on non-life insurance) should include representatives of insurance intermediaries; (c) the maximum level of pecuniary penalty of \$10 million was too high; and (d) the inspection and investigation powers vested with IA could be too wide. Regarding the concerns about the pecuniary penalty, DS(FS) pointed out that there were a wide range of disciplinary sanctions, such as private or public reprimand, suspension or revocation of licence, and pecuniary penalty. The level of \$10 million was only the penalty maxima, and the Administration had made reference to the maximum level of penalty under other relevant financial regulatory regimes in Hong Kong. The legislative proposals would also

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prescribe that the IIA had to issue a guideline before it might impose a pecuniary penalty. It was envisaged that the guideline would, among other things, provide that the penalty should be proportionate to the severity of the misconduct. DS(FS) supplemented that as there was a wide spectrum of insurance intermediaries (some of which were banks and international brokerage firms), the penalty maxima must have adequate deterrent effect. As regards the inspection and investigation powers of IIA, DS(FS) said that the Administration had made reference to the powers available to other financial regulators like the Securities and Futures Commission and the Mandatory Provident Fund Schemes Authority when working out the proposals.

5. Mr YIU Si-wing opined that the Governing board of IIA should have broad representation from the insurance industry and insurance practitioners. On the composition of IIA Governing board, DS(FS) advised that it would consist of a chairman, the chief executive officer and not fewer than six directors from a cross-section of the community including professionals, academics, and persons with knowledge of the insurance industry, all of whom were appointed by the Chief Executive. The Administration was analyzing views from the insurance industry and would brief FA Panel on the matter in July 2013.

Handling of complaints in the insurance sector

6. Ms Emily LAU sought the Administration's views on the rising number of complaints against the insurance industry. She enquired whether the insurance industry was aware of this trend and what measures the industry would take to tackle the problem. Mr TANG Ka-piu enquired whether complaints against insurance intermediaries should be lodged to the existing Self-Regulatory Organisations (SROs) or IIA upon the establishment of IIA.

7. DS(FS) responded that the insurance intermediaries in Hong Kong were currently supervised by three SROs. The number of complaints against insurance intermediaries received by the three SROs and those against insurers received by the Office of the Commissioner of Insurance (OCI) had remained stable in the past few years. The three SROs would handle complaints and conduct issues. Insurers had also established internal control mechanisms to supervise their agents. OCI would follow up with insurers cases involving serious misconduct of insurance intermediaries. In response to Mr TANG's query, DS(FS) explained that with the establishment of IIA, a statutory licensing regime for insurance intermediaries would be introduced to replace the existing self-regulatory regime and complaints against insurance intermediaries would be handled by IIA.

Operations of the independent Insurance Authority

8. In response to Mr Kenneth LEUNG's enquiry about the proposed complaint handling mechanism of IIA and appeal mechanism against IIA's disciplinary decisions, DS(FS) highlighted the salient points of the proposed mechanisms as follows:

- (a) when members of the public lodged a complaint against an insurance intermediary to IIA, IIA would conduct investigation and submit a report to its Disciplinary Committee, which would conduct hearings and make a disciplinary decision. It was a statutory requirement that the intermediary concerned be given a reasonable opportunity of being heard.
- (b) an aggrieved party could appeal to the Insurance Appeals Tribunal (IAT), an independent statutory body chaired by a person eligible for appointment as a High Court Judge and comprising two other members. IAT might confirm, vary or set aside the disciplinary decisions of IIA, as well as direct IIA to make a decision afresh in respect of a complaint case.
- (c) an aggrieved party who was dissatisfied with a decision of IAT could appeal to the Court of Appeal.

9. Noting that the existing OCI would be replaced by IIA, Mr Kenneth LEUNG enquired about the existing and proposed establishments of OCI and IIA respectively, and whether there would be direct transfer of existing staff of OCI to IIA. He also asked whether FSTB would, upon the establishment of IIA, maintain a dedicated division to liaise with IIA.

10. DS(FS) responded that according to the consultation document released in 2010, the proposed headcount of IIA would be 237. As for OCI, the current establishment was 133, including 63 non-civil service contract staff, 48 insurance officers and 22 general grade staff. Upon the establishment of IIA, the general grade staff would be redeployed to other bureaux/departments (B/Ds) of the Government. All posts of IIA would be filled by open recruitments, and there would not be any direct transfer of existing staff from OCI to IIA. But the existing insurance officers and contract staff in OCI might have a competitive edge owing to their relevant working experience. DS(FS) added that it was anticipated that IIA would be established in 2015. As the extension of the supernumerary post would expire on 31 October 2015, the Administration would review the manpower situation nearer the time. Given that the workload related to insurance matters could be substantially reduced after the establishment of IIA, FSTB would consider whether the

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other duties undertaken by the holder of the supernumerary post could be absorbed by other officers in FSTB as appropriate.

11. Mr TANG Ka-piu enquired about work of the incumbent of the proposed post in enhancing the existing regulatory regime of insurance intermediaries, in particular the regulation of banks' insurance intermediary activities.

12. DS(FS) responded that the current proposal was to empower IIA to delegate, subject to the approval of the Chief Executive in Council, to the Hong Kong Monetary Authority (HKMA) powers to inspect and investigate banks' insurance intermediary activities. In respect of investigation of misconduct, HKMA would be required to submit a report to the Disciplinary Committee of IIA after completion of the investigation, which would make the disciplinary decision. DS(FS) added that IIA would be the sole regulator to set conduct standards for and impose sanctions on all licensed insurance intermediaries, including banks.

Coverage of the Policyholders' Protection Fund

13. Mr CHUNG Kwok-pan said that he had no objection to the proposal, and enquired about the coverage of the proposed PPF. DS(FS) said that he would provide Mr CHUNG with the details in writing. Very briefly, the PPF would cover individual policyholders, small and medium enterprise (SME) policyholders and building owners' corporations (OCs). SME policyholders and OCs were covered because the former had relatively low bargaining power while the latter was subject to the mandatory requirement of procuring third party risks insurance. DS(FS) further advised that in the event of the insolvency of an insurer, the PPF would facilitate the transfer of life insurance policies to another insurer. In the unlikely event where life policies could not be transferred, the policies concerned could continue until expiry or be terminated. If a policy eventually had to be terminated or a compensation had to be made, the PPF would pay the amount to the policyholder.

14. The item was voted on. Members agreed that the Subcommittee should recommend the item to the Finance Committee (FC) for approval. No members required for separate voting on the item at the FC meeting to be held on 21 June 2013.

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EC(2013-14)4 Proposed rationalization of some directorate posts in Works Branch of Development Bureau, Planning Department, Civil Engineering and Development Department and Electrical and Mechanical Services Department for meeting changing operational needs and optimising the use of limited staff resources

15. The Chairman said that the Administration's proposal was to rationalize a number of directorate posts in Works Branch (WB) of Development Bureau (DEVB), Planning Department, Civil Engineering and Development Department and Electrical and Mechanical Services Department (EMSD) for meeting changing operational needs and optimizing the use of limited staff resources.

16. The Chairman advised that the Panel on Development had been consulted on the proposal at its meeting on 23 April 2013. Panel members supported the proposal in general. In view of the growth in expenditure on public works projects in the coming few years, some Panel members considered that the Administration should review the manpower situation in relevant B/Ds at appropriate times in meeting their long-term manpower needs. The Administration had noted the above views expressed by members at the Panel meeting.

Conversion of multi-disciplinary posts to designated grade posts

17. Mrs Regina IP noted that the Administration's proposal was cost-neutral as it only involved converting a number of directorate multi-disciplinary (MD) posts (posts created in a particular grade while being open to other professional grades) to designated grade (i.e. single disciplinary) posts without creating any new directorate posts. She enquired about the justifications for the conversion. Permanent Secretary for Development (Works) (PS(W)) explained that unlike designated grade posts, MD posts did not belong to a specific head of grade. It would thus be difficult for the heads of relevant eligible grades to plan ahead in filling vacancies in MD posts. With the rise in the number of MD posts over the years to cope with increasing workload in WB and its works departments, manpower planning had become increasingly difficult. Reviews of job requirements of the concerned MD posts had revealed that these posts required knowledge and practical experience of the relevant professional disciplines rather than multi-disciplines in order to bring relevant expertise to B/Ds in delivering the policy portfolios and specific tasks in an effective and efficient manner.

18. Mrs Regina IP expressed concern that conversion of MD posts to designated grade posts might affect the development of some professional

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disciplines in the civil service. For instance, she opined that a designated grade should be created for the tree management discipline, including professionals like arborists and botanists, instead of putting the concerned professionals under the supervision of the landscape architect grade under the current structure of the Tree Management Office (TMO), which she considered not conducive to effective delivery of tree management policies and tasks. Referring to the tree management experience of Panyu municipality and Nansha, Mrs IP called on the Administration to expand TMO and recruit more tree experts to undertake related work.

19. PS(W) said that TMO had been established under DEVB to take charge of duties, including formulation of tree management policies and coordinating support of relevant government departments on tree management matters. The Administration would review the operational needs of establishing a new grade for tree management tasks. PS(W) remarked that such a grade, if created, would have posts established in relevant bureaux and departments.

20. Dr KWOK Ka-ki pointed out that the proposed conversion of a number of MD posts to designated grade posts would affect the promotion prospect of certain professional grades. He enquired whether the relevant staff associations had been fully consulted. PS(W) responded that the Administration had consulted members of the professional grades in the Planning and Lands and Works groups of departments on the conversion of MD posts to designated grade posts and the regrading proposals. The staff in general supported the proposals.

21. Mr Martin LIAO supported the proposal on the benefits of more effective and efficient delivering of policy portfolios and related tasks in WB and the concerned works departments. Mr LIAO enquired about the background of the establishment of MD posts in the past, and whether there would be adjustment in the responsibilities of the designated grade posts after the conversion exercise.

22. Mr YIU Si-wing noted that four Chief Assistant Secretary (CAS) posts among the existing seven MD posts in WB would maintain the MD status. He enquired whether the Administration had plans to convert the four CAS posts into designated grade posts in the near future.

23. Dr KWOK Ka-ki asked whether the Administration would consider reversing the designated posts into MD posts after sometime, and expressed concern that this might cause disruption to the long-term manpower planning and training.

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24. PS(W) confirmed that relevant adjustments had been made to the responsibilities of designated grade posts to be converted from MD posts. On the background of the establishment of MD posts, PS(W) said that with relatively limited manpower resources in the past, the creation of MD directorate posts was considered more desirable as such posts could be filled by staff in various professional grades to facilitate taking forward of various tasks straddling different policy portfolios. With the increase in manpower resources in recent years in coping with the heavy workloads, it was found that maintaining the MD status of some posts was not conducive to staff planning and deployment as job requirements of some posts required the expertise of designated professional disciplines. The Administration considered that the creation of multi-disciplinary teams with designated grade posts of the right disciplines and core expertise would better meet the changing operational needs and optimizing the use of staff resources in DEVB and the departments under its purview. Hence, there was no plan to reverse the regrading proposals.

Responsibilities of specific posts

25. Mr TANG Ka-piu referred to paragraph 4 of EC(2013-14)4 and enquired whether the new responsibilities of the CAS(W)4 post would cover enhancing lift and escalator safety as well as training of technicians and workers in the industry. PS(W) said that the responsibilities of CAS(W)4 would include support in various policy issues related to public safety covering lift and escalator, water-cooled air conditioning systems, etc. He advised that EMSD had established an advisory committee addressing the issues mentioned by Mr TANG. In response to Mr TANG's further enquiry, he confirmed that the advisory committee comprised members from the lift and escalator trade.

26. Dr KWOK Ka-ki noted that the post of Chief Engineer/Health Sector (CE/HS) in the Health Sector Division of EMSD would have a wide range of duties relating to the operation and maintenance of electronics, electrical, mechanical systems used by the Hospital Authority, Department of Health and Government Laboratory. He considered that apart from expertise in electronics engineering, the CE/HS post required expertise in the fields of electrical and mechanical engineering, and enquired why the Administration had proposed to convert the MD post into an electronic engineer (EE) grade post. He also sought information on the necessary training to be provided to the officer filling the post.

27. Director of Electrical and Mechanical Services (DEMS) advised that in discharging the duties of the Health Sector Division, the CE/HS would be supported by professional grade staff, including information technology

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engineers, biomedical engineers, building services engineers and electrical and mechanical engineers, etc. Due to the application of advanced technologies for medical and scientific equipment, and the possible associated increasing number of incident investigations to be conducted, a Chief Electronics Engineer (CEE) familiar with the equipment and technology of the healthcare industry was considered more appropriate. Based on past experience, a CEE with the appropriate background would nurture the growth of the Health Sector Division more effectively and collaborate with the Hospital Authority and Department of Health more efficiently to cater for the demand of high quality health services. The CE/HS post was thus proposed to be converted to the EE grade post. DEMS also pointed out that relevant internal training was provided to various grades in EMSD.

28. In response to Mr YIU Si-wing's enquiry about the duties of the four MD posts to be maintained in WB, PS(W) remarked that the duties concerned had been re-arranged and taken up by designated professional grades as specified in paragraphs 4 to 8 of EC(2013-14)4.

29. The item was voted on. Members agreed that the Subcommittee should recommend the item to FC for approval. No members required for separate voting on the item at the FC meeting to be held on 21 June 2013.

30. There being no other business, the meeting ended at 9:12 am.

Council Business Division 1
Legislative Council Secretariat
20 June 2013